

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DANIEL TAYLOR,

Plaintiff in *pro per*,

v

Case No.: 2:10-cv-10302
Hon. Avern Cohn

SHERMETA, ADAMS, & VON ALLMEN, P.C.,

Defendant.

Daniel Taylor
Plaintiff in Pro Per
35639 Rainbow Drive
Sterling Heights, MI 48312
(586) 698-2553

Michael P. Ashcraft, Jr. (P46154)
Plunkett Cooney
Attorney for Defendant
38505 Woodward Ave., Ste. 2000
Bloomfield Hills, MI 48304
(248) 594-8217

**DEFENDANT'S ANSWER TO VERIFIED PETITION, COMPLAINT AND CLAIM
IN THE NATURE OF PETITION FOR REDRESS OF INJURIES UNDER
AUTHORITY OF THE FAIR DEBT COLLECTIONS PRACTICES ACT, FOR
VIOLATIONS UNDER 15 U.S.C. 1601 ET SEQ AND "RICO"**

Defendant, Shermeta, Adams & Von Allmen, P.C., through its attorneys, Plunkett Cooney, respond to Plaintiff's Verified Petition, Complaint and Claim in the Nature of Petition for Redress of Injuries Under Authority of the Fair Debt Collections Practices Act, for Violations Under 15 U.S.C. 1601 et seq and "RICO," as follows:

1. No contest.
2. Defendant is not required by the Federal Rules of Civil Procedure to respond to this allegation for the reason that the referenced letter speaks for itself.

3. Defendant is not required by the Federal Rules of Civil Procedure to respond to this allegation for the reason that the referenced letters speak for themselves.

4. Defendant denies as untrue.

5. Defendant is not required by the Federal Rules of Civil Procedure to respond to this allegation for the reason that the referenced correspondence speaks for itself.

6. Defendant is not required by the Federal Rules of Civil Procedure to respond to this allegation for the reason that the referenced Summons and Complaint speak for themselves.

7. Defendant is not required by the Federal Rules of Civil Procedure to respond to this allegation for the reason that the referenced Notice of Dispute and Request for Validation speaks for itself.

8. **FIRST CAUSE OF ACTION:** Defendant is not required by the Federal Rules of Civil Procedure to respond to Plaintiff's legal conclusions; however, Defendant categorically denies any alleged violation as untrue.

9. Defendant is not required by the Federal Rules of Civil Procedure to respond to Plaintiff's legal conclusions; however, Defendant categorically denies any alleged violation or false and misleading representations as untrue.

10. **SECOND CAUSE OF ACTION:** Defendant is not required by the Federal Rules of Civil Procedure to respond to Plaintiff's legal conclusions; however,

Defendant categorically denies any alleged violation or false and misleading representations as untrue.

11. THIRD CAUSE OF ACTION: Defendant is not required by the Federal Rules of Civil Procedure to respond to Plaintiff's legal conclusions; however, Defendant categorically denies any alleged violation as untrue.

12. FOURTH CAUSE OF ACTION: Defendant is not required by the Federal Rules of Civil Procedure to respond to Plaintiff's legal conclusions; however, Defendant categorically denies any alleged violation and threats to interfere with business interests as untrue.

13. Defendant is not required by the Federal Rules of Civil Procedure to respond to Plaintiff's legal conclusions.

14. Defendant is not required by the Federal Rules of Civil Procedure to respond to Plaintiff's legal conclusions; however, Defendant categorically denies any alleged "tainted" practices, schemes of fraud and extortion, harassment, intimidation, and any other wrongdoing or violations of law as untrue.

15. FIFTH CAUSE OF ACTION: Defendant is not required by the Federal Rules of Civil Procedure to respond to Plaintiff's legal conclusions; however, Defendant categorically denies any alleged "racket," illicit business of debt buying, trickery, deceit, harassment, extortion, and violation of any law as untrue.

16. SIXTH CAUSE OF ACTION RESULT IN VIOLATION OF 18 U.S.C. 1961 & 1962: Defendant is not required by the Federal Rules of Civil Procedure to

respond to Plaintiff's legal conclusions; however, Defendant categorically denies any alleged fraud, extortion, and violation of any law as untrue.

17. Defendant is not required by the Federal Rules of Civil Procedure to respond to Plaintiff's legal conclusions; however, Defendant categorically denies any alleged violation of law or wrongdoing, and alleged resulting damages, as untrue.

REMEDY SOUGHT

18. Defendant is not required by the Federal Rules of Civil Procedure to respond to Plaintiff's legal conclusions; however, Defendant categorically denies as untrue.

19. Defendant is not required by the Federal Rules of Civil Procedure to respond to Plaintiff's legal conclusions; however, Defendant categorically denies any alleged violation of consumer laws, bad behavior, racketeering activities, violation of law, or wrongdoing, and alleged resulting damages, as untrue.

Defendant, Shermeta, Adams & Von Allmen, P.C., through its attorneys, Plunkett Cooney, respectfully request that the Court dismiss Plaintiff's Complaint and award attorney fees and costs accordingly.

PLUNKETT COONEY

/s/ Michael P. Ashcraft, Jr.
Michael P. Ashcraft, Jr. (P46154)
Attorney for Defendant
38505 Woodward Ave., Suite 3000
Bloomfield Hills, MI 48304
(248) 594-8217

DATED: March 15, 2010

AFFIRMATIVE DEFENSES

Defendant, Shermeta, Adams & Von Allmen, P.C., through its attorneys, Plunkett Cooney, state the following Affirmative Defenses:

1. Plaintiff's Complaint fails to state a cause of action upon which relief can be granted;
2. Plaintiff's Complaint has presented no genuine issue as to any material fact and Defendant is entitled to judgment as a matter of law;
3. Plaintiff's Complaint is barred by the applicable statute of limitations;
4. Any actions or inactions of Defendant was not the proximate cause of the damages allegedly sustained by Plaintiff;
5. At all pertinent times, Defendants acted in a reasonable, prudent, and proper manner, and in accordance with the then prevailing standards of care;
6. Plaintiff's Complaint is frivolous and Defendant is entitled to costs pursuant to Fed. R. Civ. Pro. 11;
7. Defendant, at all times pertinent, acted in good faith;
8. Plaintiff's claims are barred by the doctrine of unclean hands;
9. Plaintiff's claims are barred, in whole or in part, by release or waiver;
10. Plaintiff's claims are barred, in whole or in part, by promissory, collateral, and/or equitable estoppel;
11. At all pertinent times, Defendant complied with all provisions of the Fair Debt Collections Practices Act.

12. Plaintiff's claims are barred, in whole or in part, due to ratification;
13. Plaintiff's Complaint is frivolous, vexatious, and without factual basis, and retaliatory; and,
14. Defendant reserves the right to state additional Affirmative Defenses which may become known during the course of discovery in this case.

PLUNKETT COONEY

/s/ Michael P. Ashcraft, Jr.
Michael P. Ashcraft, Jr. (P46154)
Attorney for Defendant
38505 Woodward Ave., Suite 3000
Bloomfield Hills, MI 48304
(248) 594-8217

DATED: March 15, 2010

RELIANCE UPON JURY DEMAND

Defendant, Shermeta, Adams & Von Allmen, P.C., through their attorneys, Plunkett Cooney, relies upon the demand for trial by jury requested by Plaintiff.

PLUNKETT COONEY

/s/ Michael P. Ashcraft, Jr.
Michael P. Ashcraft, Jr. (P46154)
Attorney for Defendant
38505 Woodward Ave., Suite 3000
Bloomfield Hills, MI 48304
(248) 594-8217

DATED: March 15, 2010

CERTIFICATE OF SERVICE

I hereby certify that on March 15, 2010, I electronically filed the foregoing Answer to Complaint, Affirmative Defenses, Reliance on Jury Demand and this Certificate of Service with the Clerk of the Court using the E-File system which will send notification of such filing to all parties of record. I hereby certify that I have mailed by United States Postal Service the paper to any non-E-file participants.

PLUNKETT COONEY

/s/ Michael P. Ashcraft, Jr.
Michael P. Ashcraft, Jr. (P46154)
Attorney for Defendant
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